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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,322	02/13/2002	Takanori Chiba	Mo6319/SBU-114	5926

157 7590 12/18/2002

BAYER CORPORATION
PATENT DEPARTMENT
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PITTSBURGH, PA 15205

EXAMINER

COONEY, JOHN M

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 12/18/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/807,322

Applicant(s)

CHIBA ET AL.

Examiner

John m Cooney

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 October 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Applicant's arguments filed 10-7-02 have been fully considered but they are not persuasive.

Rejection under 35 USC 112 is withdrawn in light of applicants' remarks. The following rejections are maintained.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 5-11 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 19,708,570.

DE 19,708,570 discloses preparations of rigid foams from polyols blended with cyclopentane and water wherein the cyclopentane is dispersed in the polyol component before reaction in a manner which reads on the processes of the claims (see the entire document).

Applicants' arguments have been considered, but rejection is maintained for the reasons set forth above. Applicants recite that the blending of this reference does not meet the dispersions of the claims. However, difference between the claims degree of blending and the blending of this reference is not seen in a patentable sense. Applicants' descriptive differentiation between dispersions and solutions can not be read into the claims as a limitation as the dispersion is currently defined. Further, the fact the

the examples do not show emulsions does not negate the references recitation of emulsions being employed.

Claims 5-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Hickey et al.(6,359,022).

Hickey et al. discloses preparations of rigid foams from polyols blended with cyclopentane and water wherein the cyclopentane is dispersed in the polyol component before reaction in a manner which reads on the processes of the claims (see the entire document).

Applicants' arguments have been considered, but rejection is maintained for the reasons set forth above. Further, the disclosure of a composition of matter in a reference may be anticipatory even though the reference indicates that the composition is not preferred or even that it is unsatisfactory for the intended purpose. In re Nehrenberg 126 USPQ 383. Such is seen to be evident in the instant case.

Claims 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Barth et al.(4,275,172).

Barth et al. discloses an apparatus for blending reactive mixtures in polyurethane preparations (see column 3, as well as, the entire document). No difference is seen between the mixing devices claimed and that utilized by Barth et al.

Applicants' arguments have been considered, but rejection is maintained for the reasons set forth above. Applicants' argue that figure 1 of the reference lacks a high

pressure circulating line. However, the reference as a whole teaches a static mixer to be in the line from the polyol feed tank to the reaction mold, and the system is under pressure. This disclosure is maintained from the position of patentability to anticipate the apparatus defined by applicants claims without further limiting definition of the "high pressure circulating line" being provided in the claims.

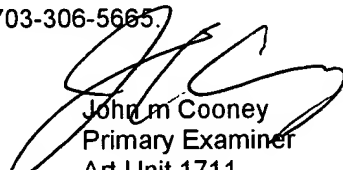
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John m Cooney whose telephone number is 703-308-2433. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, james seidleck, can be reached on (703) 308-2462. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.


John m Cooney
Primary Examiner
Art Unit 1711